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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,084	04/07/2005	Yuuji Machara	144A 3683 PCT	2385
3713 7590 12/28/2007 QUINN EMANUEL KODA & ANDROLIA 865 S. FIGUEROA STREET, 10TH FLOOR LOS ANGELES, CA 90017.			EXAMINER GREENHUT, CHARLES N	
			ART UNIT 3652	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/531,084	<b>Applicant(s)</b> MAEHARA ET AL.	
	<b>Examiner</b> Charles N. Greenhut	<b>Art Unit</b> 3652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **I Information Disclosure Statement**

1. The references cited in the Search Report completed 1/27/04 have been considered. Applicant is reminded, however, that references and families thereof cited by a foreign offices should be provided on an information disclosure statement filed in accordance with 37 CFR 1.98(a)(1). For Applicant's convenience these references have been listed by the Examiner on PTO form 892 so no further action is required by Applicant. Copies have been omitted.

## **II Drawings**

1. Figures 38-39 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

## **III Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - 1.1. With respect to claim(s) 1, and 3, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
  - 1.2. With respect to claim(s) 1, 3, 12, 14, 16 and 17, no clear transitional language exists demarcating the beginning of the recitation of the required claim elements. It is therefore unclear what elements Applicant intends as required elements of the claimed combination and what elements are recited

merely as preamble. Examiner suggests inserting transitional language after the word "loading" in line 2 since the elements recited thereafter appear to be intended as elements of the claimed combination. (See e.g., claim 7)

1.3. With respect to claim(s) 1, 3, 12, 14, 16 and 17, it is unclear what is meant by the phrase "allowed" in line 5. Applicant is reminded that apparatus claims may be set forth in terms of structure or function but may not be based upon the preference of the intended user since one of ordinary skill in the art would have no way of determining exactly what is encompassed by the claim.

1.4. With respect to claim(s) 1, Applicant employs the phraseology "left" and "right" without first defining a frame or reference.

1.5. With respect to claim(s) 1, Applicants use of alternative language, e.g., "(or right)" results in permutations, e.g., the first chain running from right posterior to right anterior and the second chain running from left posterior to left anterior, which are not described in the specification and, more specifically, do not allow the chains to cross as required by the language of the final paragraph.

1.6. With respect to claim(s) 3, the term "low" in line 7 is a relative term which renders the claim indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

1.7. With respect to claim(s) 3, it is unclear what "the center" in line 17 refers to.

1.8. With respect to claim(s) 3, it is unclear what "can be stopped" in line 18

1.9. With respect to claim(s) 3, it is unclear what "its" refers to in line 19

1.10. With respect to claim(s) 3, it is unclear which "chain" (or chains?) is being referenced in line 20

1.11. With respect to claim(s) 3, it is unclear what is meant by the phrases, "when one (the other) set combines with the sprocket" since based on the specification (figs. 5-6 Pgs. 43-45), the chain and rotary bodies at all times appear to be "combined" with the sprocket. Furthermore the language implies it is the chain-sprocket combination which serves to selectively "fasten" the wall to the box or the floor where based upon the specification, this appears to be the function of the stopper or other embodiment of the latch. Clarification is required.

1.12. With respect to claim(s) 3, it is unclear what is meant by the phrase "vice versa" in the last line.

1.13. With respect to claim(s) 14, the term "close" in line 9 is a relative term which renders the claim indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

1.14. With respect to claim(s) 16, it is unclear what "its" refers to in line 8.

#### **IV Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 1-4, 6/1-4, 7, 17 and 20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over LUTZ'508 (US 5,143,508 A) in view of LUTZ'564 (US 5,009,564 A) and further in view of LUTZ'196 (US 4,082,196 A)
  - 1.1. With respect to claim(s) 1, 3, 7, as best understood by Examiner, LUTZ'508 discloses cargo box (10) having floor (16) movable via anterior cylinder (302) (hydraulic substitution is well known. See e.g., LUTZ'564/290), movable partition wall (34), that can act as a stopper, which may be latched (e.g., by clamping means Fig 8-10) or allowed to move in association with the floor (See moving sequence in LUTZ'564 Fig. 1A-E), (referring to the figure 13 embodiment of LUTZ'508) a first flexible drive member (152) fixed at a right posterior (154), the other end fixed to a left anterior end (156), stretched between rotary bodies (158/160) second flexible drive member (162) fixed at a left posterior (164) and right anterior (166), stretched between rotary bodies (168/170) forming a stack with the other rotary bodies (158/160) the flexible drive members (152/162) crossing. LUTZ'508 fails to disclose that the flexible drive members are chains and that a sprocket is used to engage the bulkhead with the drive members. LUTZ'508 expressly suggests (Col. 6 Li. 39 et seq.) combination with any drive means disclosed in the cross referenced applications (e.g., LUTZ'196). LUTZ'196 teaches moving a bulkhead (66) by carrying a motor (72) and sprocket (80) connected to a chain (34). Using the sprocket/chain arrangement of LUTZ'196 to drive the bulkhead of LUTZ'508 constitutes the simple substitution of one known element for another to obtain predictable results. It would have been obvious to one having ordinary skill in the art to modify LUTZ'508 with the drive of LUTZ'196 in order to obtain the predictable result of selectively actuating the bulkhead as expressly suggested by LUTZ'508.
  - 1.2. With respect to claim(s) 2, motor (72) of LUTZ'196 is capable of functioning as a braking device.
  - 1.3. With respect to claim(s) 4, 6/1-4, 17, 20 in addition to the elements discussed above, LUTZ'508 additionally discloses container (10) LUTZ'564 additionally discloses, rack rail (94) selectively engaged by cam (96). Use of the LUTZ'508 cam/rack arrangement constitutes the simple substitution of one element for another to achieve the predictable result of relatively fixing the bulkhead to another component. While not specifically shown LUTZ'564 acknowledges the importance of maintaining components within a groove in order to minimize contamination (Col. 3 Li. 46-48). It would have been obvious to one having ordinary skill in the art to provide the rail in a groove in order to minimize contamination as taught by LUTZ'564. (See Also Figure 3 of FORS (US

3,998,343 A) which specifically illustrates housing components in rails, e.g., (27)/(92) having lateral openings)

2. Claim(s) 5/3, 5/4, 8-9/7-8, 10-11/1,3,7, 18, and 19/17-18, is/are rejected under 35 U.S.C. 103(a) as being unpatentable over LUTZ'508 in view of LUTZ'564 and further in view of LUTZ'196 and further in view of LUTZ'290 (US 5,314,290 A)

2.1. With respect to claim(s) 5/3, 5/4, 10-11/1,3,7, 18, flexible seals are well known in the art, as demonstrated, for example by LUTZ'290 which teaches flexible seal (e.g., 100/128/130). Locating opposing floor drive cylinders in both the anterior and posterior is also well known in the art, as demonstrated, for example, by LUTZ'290 (See e.g., Fig. 37-38 emb.). It would have been obvious to one having ordinary skill in the art to modify LUTZ'508 in view of LUTZ'564 and further in view of LUTZ'196 with the flexible seal of LUTZ'290 in order to obtain the predictable result of inhibiting contamination of the components. Use of the floor actuating arrangement of Fig. 37/38 of LUTZ'290 constitutes simple substitution of one known element for another in order to obtain predictable results. It would have been obvious to one having ordinary skill in the art to modify LUTZ'508 in view of LUTZ'564 and further in view of LUTZ'196 with the floor actuating arrangement of LUTZ'290 in order to obtain the predictable result of stably actuating the floor.

2.2. With respect to claim(s) 8, hydraulic power and control units are well known in the art. LUTZ'290 discloses pump (70) and oil tank (68) but does not specify a power source. It is well-known that these types of pumps may generally be electrically or gas/diesel powered with gas/diesel being preferred on mobile units. It would therefore have been obvious to provide an engine and fuel tank to drive the pump.

2.3. With respect to claim(s) 9/7-8, 19/17-18 providing an additional rack/cam assembly on the floor involves merely the rearrangement and duplication of parts in order to obtain predictable results and is taught in the Figure 48 embodiment of LUTZ'290. It would have been obvious to one having ordinary skill in the art to modify LUTZ'508 in view of LUTZ'564 and further in view of LUTZ'196 with the rack/cam on the movable floor arrangement of LUTZ'290 in order to obtain the predictable result of fixing the movable wall relative to the movable floor.

3. Claim(s) 12-14, 16 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over LUTZ'508 in view of LUTZ'564 and further in view of LUTZ'196 and further in view of BOWLES (US 3,901,394 A)


3.1. With respect to claim(s) 12-14, 16 in addition to the elements discussed above, it is well known in the art to provide a cargo loading opening on the roof or sidewall at the anterior of the cargo body, as demonstrated, for example, by BOWLES which teaches a load opening (32) at the anterior of body (14) close to the access port (at 34) having hinged door (34) (double hinged rear doors are also well known e.g. See FORS Fig. 1 - (22)/(23))

4. Claim(s) 15 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over LUTZ'508 in view of LUTZ'564 and further in view of LUTZ'196 and further in view of BOWLES and further in view of FORS (US 3,998,343 A)
- 4.1. With respect to claim(s) 15, FORS (Fig. 9) demonstrates that it is well known in the art to extend a flexible mat (68) beyond a posterior opening (20). It would have been obvious to one having ordinary skill in the art to modify LUTZ'508 in view of LUTZ'564 and further in view of LUTZ'196 and further in view of BOWLES with the extending flexible mat of FORS in order to facilitate loading cargo.

#### **V Conclusion**

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 6:30am - 3:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached at (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SAUL RODRIGUEZ  
SUPERVISORY PATENT EXAMINER